IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6738 OF 2006

Neeta Pradeep Shah .. Petitioner.

vs.

Pradeep Govindlal Shah . .. Respondent.

Mr. Smita Mane for petitioner.

Mr. P.M. Shah for Respondent.

CORAM : A.P. DESHPANDE, J.

DATE : 30th November, 2006.

P.C.

. The petitioner and the respondent were married in the year 1991 and the said marriage has been dissolved by a decree of divorce passed on 20.4.2004 in Petition No. 213 of 2000 by the Family Court, Pune. While dissolving the marriage by a decree of divorce, the Family Court issued further directions and the same are in the nature of granting permanent alimony and the husband making a provision for alternative suitable accommodation for the wife either at Pune or at Mumbai. The parties to this petition are presently residing at Pune and, their children are also taking education at Pune. Both the children are in the custody of the

Respondent. Hence, further directions are also issued so as to facilitate access to the mother with the children.

2. One of the directions which the subject matter of the present petition pertains to providing alternate suitable accommodation at Pune or at Mumbai to the wife by the husband. In compliance of the said direction earlier the respondent husband had procured a residential accommodation at Nalasopara but the present petitioner did not agree for occupying the said accommodation on the ground that the decree had mandated making a provisions for accommodation either at Pune or Mumbai. The petitioner succeeded in a writ petition filed in this Court as this Court held that the executing court is supposed to execute the decree and the decree in terms provide for making available a residential accommodation at Pune or Mumbai. Thereafter the present respondent/ husband has procured a residential accommodation at Pune in a huge building comprising of 72 flats. The flat purchased by the respondent, with a view to accommodate the petitioner, is of one room kitchen admeasuring 350 sq. ft. and the same has been found to be sufficient by the executing court. A Commissioner was also appointed to have inspection of the flat and relying upon the Commissioner’s report and having regard to the deposit of the keys

by the respondent/husband in the court, the executing court has passed an order directing the present petitioner/judgment debtor to vacate the flat situated at Bhavani Peth, Pune and to occupy the flat (which is now purchased by the respondent for accommodating the petitioner) in Gulmohar Apartment, Balaji Nagar, Dhankawadi, Pune within a period of one month i.e. on or before 31.10.2006. Aggrieved by the said order, the present petition came to be filed.

3. The learned counsel for the petitioner has made two-fold submission (i) that the petitioner is only getting Rs. 2000/- towards permanent alimony per month and it will be taxing if the petitioner has to bear the maintenance so also the outgoings such as electricity bill, etc., In all fairness, the learned counsel for the respondent categorically states that the respondent will bear all the outgoings of the said flat meaning thereby contribution to the society towards maintenance charges, electrical bill and travelling expenses as and when the children are to be brought at the residence of the petitioner.

4. It is next contended that the flat which is now made available by the respondent is at some distance from the house which is occupied presently by the petitioner so also it is not convenient.

5. I have perused the impugned order. The same does not call for any interference more so in view of the statement made by the learned counsel for the respondent that the respondent will contribute towards the electrical bill, maintenance charges to be paid to the society so also the travelling expenditure. In the result, accepting the above statement made by the learned counsel for the respondent, the petition is disposed of.

6. At this stage, the learned counsel for the petitioner seeks time to vacate the premises till the end of December, 2006. The prayer is reasonable and needs to be granted. In view of the statement made by the petitioner, the petitioner will vacate the premises on or before 31.12.2006. The impugned order shall not be executed till 31.12.2006.

(A.P. Deshpande, J.)